APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT DATED AND DECIDED APRIL 26, 1999

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term, 1998

(Argued: April 9, 1999 Decided: April 26, 1999)

Docket Nos. 98-6147, 98-6173

RUTH L.R. LEVY, GARRY ROEMER, ANTHONY CARLO, GEORGE P. CULLEN, RAYMOND GAST, DESPINA HATZELIS, DONALD LOPES, GERALD T. MAGUIRE, BERNARD RASHES, MICHAEL SAVINO, THOMAS REPASCH, ERNEST ARCIELLO, HARVEY FREELING, JAMES R. BRADLEY, EDWIN B. GRIFFIN, RICHARD SCHLITT, ROBERT G. MURRAY, AMY HUTNER, JOHN PATRICK HARRISON, ALLEN W. GENDLER, RUDOLF PLESSING, and JAMES D. VAN BLARCOM,

Plaintiffs-Appellants,

— v. —

UNITED STATES GENERAL ACCOUNTING OFFICE,

Defendant-Appellee.

Before:

WINTER, *Chief Judge*,
NEWMAN, and SOTOMAYOR, *Circuit Judges.*

* * *

Appendix A

PER CURIAM:

In this consolidated appeal, appellants other than Ruth L.R. Levy (the "Roemer Appellants") appeal from Judge Mukasey's order dismissing their complaint in *Roemer v. United States Gen. Accounting Office*, No. 97 Civ. 4488 (MBM) ("the Roemer Complaint") as time barred. All appellants appeal from the district court's dismissal of the Roemer Appellants as plaintiffs in an amended complaint filed in *Levy v. United States Gen. Accounting Office*, No. 97 Civ. 4016 (MBM) (the "Levy Amended Complaint"), also because their claims were time barred. We affirm for substantially the reasons stated by the district court in its holding with regard to the single filing rule. *See Levy v. United States Gen. Accounting Office*, No. 97 Civ. 4016 (MBM), No. 97 Civ. 4488 (MBM), 1998 WL 193191 (S.D.N.Y. Apr. 22, 1998). We agree that it does not apply because the Roemer Appellants filed timely charges of discrimination with the General Accounting office ("GAO"). They were notified of the GAO's final decision on their claims, and the Roemer Complaint was not filed within ninety days of that final decision. *See id.* at *2-*4. We also agree with the district court, for substantially the reasons it stated, that the claims of the Roemer Appellants in the Levy Amended Complaint do not relate back to Levy's timely complaint. Levy did not seek to add the Roemer Appellants as plaintiffs because of a mistake, as required by Fed. R. Civ. P. 15(c)(3)(B). Rather, Levy sought to add them because the Roemer Appellants had filed a separate complaint that was time barred, *see id.* at *4-*6.

The judgment of the District Court in 97 Civ. 4488, entered May 1, 1998, and the partial judgment of the District Court in 97 Civ. 4016, certified under Fed. R. Civ. P. 54(b), and entered July 7, 1998, are affirmed.

APPENDIX B — OPINION AND ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK DATED APRIL 20, 1998

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

97 Civ. 4016 (MBM)
97 Civ. 4488 (MBM)

RUTH L.R. LEVY, et al.

Plaintiffs,

– against –

UNITED STATES GENERAL ACCOUNTING OFFICE,

Defendant.

GARRY ROEMER, JAMES D. VAN BLARCOM, ANTHONY CARLO, GEORGE P. CULLEN, RAYMOND GAST, DESPINA HATZELIS, DONALD LOPES, GERALD T. MAGUIRE, BERNARD RASHES, MICHAEL SAVINO, THOMAS REPASCH, ERNEST ARCIELLO, HARVEY FREELING, JAMES R. BRADLEY, EDWIN B. GRIFFIN, RICHARD SCHLITT, ROBERT G. MURRAY, AMY HUTNER, JOHN PATRICK HARRISON, ALLEN W. GENDLER, RUDOLF PLESSING,

Plaintiffs,

– against –

Appendix B

UNITED STATES GENERAL
ACCOUNTING OFFICE,

Defendant.

OPINION AND ORDER

* * *

MICHAEL B. MUKASEY, U.S.D.J.

In this consolidated action, Ruth L. R. Levy and Garry Roemer, *et al.*,[1] sue the United States General Accounting Office ("GAO") for violating the Age Discrimination in Employment Act of 1967 ("ADEA"), as amended, 29 U.S.C. § 621, *et seq.* (1994). Plaintiffs' claims arise from the closing of the GAO's New York field office in November 1995. Defendant moves to dismiss the Roemer plaintiffs' complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) on the ground that their claims are time-barred. The Roemer plaintiffs argue that their failure to file a complaint within the limitations period may be excused by the "single filing" rule, or alternatively, that their

1. The following parties will be collectively referred to as the "Roemer plaintiffs": Garry Roemer, Ernest Arciello, James D. Van Blarcom, James R. Bradley, Anthony Carlo, George P. Cullen, Harvey Freeling, Raymond Gast, Allen W. Gendler, Edwin B. Griffin, John Patrick Harrison, Despina Hatzelis, Amy Hutner, Donald Lopes, Gerald T. Maguire, Robert G. Murray, Rudolph Plessing, Bernard Rashes, Thomas Repasch, Richard Schlitt, and Michael Savino. The term "plaintiffs" refers to both Levy and the Roemer plaintiffs.

claims are not time-barred because they relate back to Levy's timely complaint under Fed. R. Civ. P. 15(c). For the reasons stated below, defendant's motion is granted, and the Roemer plaintiffs' claims are dismissed.

I.

The following undisputed facts are relevant to defendant's motion: the GAO is a federal agency that investigates the receipt and disbursement of federal funds, and reports its findings to Congress. (Compl. ¶ 31)[2] As of August 1995, plaintiffs, each of whom is over 40 years of age, were employed as evaluators in the GAO's New York office. (*Id.* ¶ 32) In November 1995, the GAO closed that office and eliminated the jobs of all employees working there. (*Id.* ¶ 56)

In January 1996, plaintiffs filed with the GAO timely administrative charges of unlawful age discrimination. (*Id.* ¶ 6) On March 6, 1997, the GAO issued a final decision denying plaintiffs' claims in their entirety. (*Id.* ¶ 7) That same day, the GAO informed plaintiffs by certified mail that if they wished to challenge that decision in federal court, they were required under the ADEA to file a complaint within 90 days, *i.e.*, by June 6, 1997. (*Id.* Ex. A at 2)

On June 2, 1997, Levy filed a complaint on her own behalf against the GAO alleging intentional age discrimination under the ADEA. *Levy* v. *United States Gen. Accounting Office*, No. 97 Civ. 4016 (S.D.N.Y. filed June 2,

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2. Citations to "Compl." refer to Levy's First Amended Complaint filed on September 18, 1997.

1997). On June 18, 1997, the Roemer plaintiffs filed a similar complaint against the GAO. *Roemer, et al.* v. *United States Gen. Accounting Office*, No. 97 Civ. 4488 (S.D.N.Y. filed June 18, 1997). After consolidating the two actions, I granted Levy's motion to amend her complaint pursuant to Rule 15(a) without prejudice to the GAO's right to challenge the Roemer plaintiffs' claims on the ground that those claims are time-barred.

On September 18, 1997, Levy amended her complaint adding the Roemer plaintiffs to her lawsuit.[3] The GAO moves to dismiss the Roemer plaintiffs' complaint in its entirety, and to dismiss them as additional plaintiffs from Levy's lawsuit, on the ground that the court lacks subject matter jurisdiction over the Roemer plaintiffs' claims pursuant to Rule 12(b)(1).

II.

First principles of sovereign immunity dictate that the United States cannot be sued without its consent. *See United States* v. *Mitchell*, 463 U.S. 206, 202 (1983). If the government has not waived its sovereign immunity, or if the conditions under which the government has agreed to waive that immunity have not been met, federal subject matter jurisdiction does not exist. *See United States* v. *Sherwood*, 312 U.S. 584, 586 (1941); *Williams* v. *United States*, 947

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3. Levy also amended the complaint to add a claim of disparate impact discrimination to supplement her initial allegation of intentional discrimination. Defendant does not challenge that this amendment relates back to Levy's original complaint. *See* Fed. R. Civ. P. 15(c)(2).

F.2d 37, 39 (2d Cir. 1991). In other words, a claimant may not sue the federal government without complying with all statutory and regulatory prerequisites. *See Morales* v. *United States*, 38 F.3d 659, 660 (2d Cir. 1994); *Wyler* v. *United States*, 725 F.2d 156, 159 (2d Cir. 1983).

The ADEA is a statute in which Congress has coupled a waiver of sovereign immunity with certain conditions precedent to suit in federal court. Under the ADEA, a federal employee claiming age discrimination has the option to sue in federal court in the first instance, or to pursue administrative remedies and then sue in federal court if he is dissatisfied with the results. *See* 29 U.S.C. § 633a(b) & (c) (1994); *Long* v. *Frank*, 22 F.3d 54, 56 (2d Cir. 1994). Where, as here, the employee chooses the latter course, he must satisfy two conditions before he may bring sue in federal court. First, he must file a charge of discrimination with the appropriate administrative agency within 300 days after the alleged discriminatory practice occurred. *See* 29 U.S.C. § 626(d) (1994); *Tolliver* v. *Xerox Corp.*, 918 F.2d 1052, 1054-55 (2d Cir. 1990). Second, he must file a complaint in federal court no later than 90 days after being notified of the agency's final decision on his claim. *See* 29 U.S.C. § 633a(d); 29 C.F.R. § 1613.514 (1998); *Wrenn* v. *Secretary, Dep't Veterans Affairs*, 918 F.2d 1073, 1078 (2d Cir. 1990); *see also* GAO Order 2713.2 at 23, ¶ 2(a) (1994).

It is the Roemer plaintiffs' failure to meet the second condition that is at issue here. The Roemer plaintiffs — unlike Levy — failed to file their complaint in federal court within the 90-day limitations period. The Roemer plaintiffs do not claim that they did not receive proper notice of the

GAO's final decision, or that the circumstances of this case require that the limitations period be equitably tolled. *Cf. Long*, 22 F.3d at 58-59; *Dillard* v. *Runyon*, 928 F. Supp. 1316, 1325 (S.D.N.Y. 1996), *aff'd*, 108 F.3d 1369 (2d Cir. 1997) (table).

Rather, they argue that their failure to sue within the limitations period is excused by the single filing rule. In the alternative, the Roemer plaintiffs contend that if their complaint must be dismissed, their claims against the GAO survive on the theory that Levy's First Amended Complaint — which now includes the Roemer plaintiffs' claims — relates back to Levy's timely complaint pursuant to Rule 15(c). I will consider these two arguments in turn.

A. *The Single Filing Rule*

The single filing rule provides that where one plaintiff has filed a timely charge of discrimination with the appropriate administrative agency, other non-filing plaintiffs may join in a later action in federal court if their individual claims arise out of similar discriminatory treatment in the same time frame. *See Snell* v. *Suffolk County*, 782 F.2d 1094, 1100 (2d Cir. 1986); *see, e.g., Baker* v. *National R.R. Passenger Corp.*, No. 94 Civ. 0856, 1994 WL 714279, at *4 (S.D.N.Y. Dec. 22, 1994). The rationale for this rule is to avoid needless repetition in the filing of administrative charges when the initial claim was sufficient to put the employer on notice of the alleged violations and afford the employer an opportunity for conciliation with the aggrieved employees. *See Snell*, 782 F.2d at 1100. In essence, the single filing rule — which has its origins in Title VII cases but

also applies to ADEA claims — excuses a plaintiff from meeting the first condition precedent described above, namely the filing of a timely charge of discrimination with the appropriate administrative agency. *See Tolliver*, 918 F.2d at 1057.

However, the Roemer plaintiffs cannot rely on the single filing rule to excuse their failure to file a timely complaint in federal court. As noted, the rule operates under certain circumstances to excuse a plaintiff's failure to file a timely administrative charge of discrimination. But failure to satisfy that condition is not what bars the Roemer plaintiffs' complaint here; in fact, it is undisputed that the Roemer plaintiffs filed timely charges of discrimination with the GAO. Rather, their complaint is time-barred because they failed to fulfill the second condition described above: filing suit in federal court within 90 days after being notified of the GAO's final decision on their claims.

In *Tolliver*, the Second Circuit specifically foreclosed the possibility that the single filing rule could operate to exempt a plaintiff from the requirement that he file suit in federal court within the limitations period. The Court wrote:

> Nor need we have concern that application of the single filing rule will oblige Xerox to defend against stale claims. The ADEA statute of limitations provides adequate assurance that stale claims will not remain viable. The charge filing requirement of section 7(d) sets a time limit, not for the purpose of limiting time for suit, but for the purpose of affording a prompt opportunity to

> attempt conciliation. That opportunity existed within the 300 days specified in section 7(d).

918 F.2d at 1059. Thus, although a plaintiff may use the single filing rule to piggyback on the timely administrative charge of another, he must still satisfy the second condition by filing suit in federal court within the limitations period established by the ADEA. *See Id.*; *Bowers* v. *Xerox Corp.*, Nos. 94-CV-6093T, 94-CV-6261T, 1995 WL 880773, at *4 (W.D.N.Y. May 5, 1995).

The single filing rule also does not apply to the Roemer plaintiffs because, as noted, they filed timely charges of discrimination with the GAO and were notified of that agency's final decision on their claims. The Fifth, Eighth, and Eleventh Circuit Courts of Appeals have each recently held that plaintiffs who actually filed administrative charges on their own behalf cannot use the single filing rule to evade the limitations period on filing ADEA actions in federal court. *See Gitlitz* v. *Compagnie Nationale Air France*, 129 F.3d 554, 557-58 (11th Cir. 1997); *Mooney* v. *Aramco Serv. Co.*, 54 F.3d 1207, 1224 n.22 (5th Cir. 1995); *Anderson* v. *Unisys Corp.*, 47 F.3d 302, 308-09 (8th Cir. 1995) ("Even if those plaintiffs are piggybacking on another employees timely administrative charge, once they file separate administrative charges, they cannot rely any further on the other claimant's actions and must timely file suit after receiving their right-to-sue letters.")

This result is required where, as here, the Roemer plaintiffs seek to recover money damages from the GAO, an agency of the United States government. As noted, federal

courts lack subject matter jurisdiction over claims against the United States where a plaintiff has failed to comply with all of the conditions precedent to bringing suit in the federal courts established by Congress. *See Morales*, 38 F.3d at 660; *Wyler*, 725 F.2d at 159. That the single filing rule permits a plaintiff — under certain circumstances and essentially for policy reasons — to piggyback his claim onto that of another even though he did not file a timely administrative charge does not mean that the United States has consented to be sued in court by that plaintiff after the limitations period has expired. To hold otherwise would be to enlarge the scope of Congress' waiver of sovereign immunity as that waiver is currently expressed in the limitations provisions of the ADEA. *See Library of Congress* v. *Shaw*, 478 U.S. 310, 314 (1986) (waiver of sovereign immunity and any limiting conditions must be strictly construed); *Dillard*, 928 F. Supp. at 1322.

Nor do the Roemer plaintiffs cite any cases which require a different result. Although two cases from this District suggest a more expansive reading of the single filing rule, *see Connelly* v. *Manufacturers Hanover Trust Co.*, No. 89 Civ. 2257, 1990 WL 129186, at *3 (S.D.N.Y. Aug. 30, 1990); *Blesedell* v. *Mobil Oil Co.*, 708 F. Supp. 1408, 1413 (S.D.N.Y. 1989), both of these cases were decided before the Second Circuit clarified the limits of the single filing rule in *Tolliver*. The continued vitality of these cases is also questionable because their holdings conflict with the recent decisions of the Fifth, Eighth, and Eleventh Circuit Courts of Appeals discussed above.

To the extent that *Connelly* and *Blesedell* is still good law, both are distinguishable on the ground that neither

involved claims against the United States. Plaintiff cites no cases — and I am aware of none — standing for the proposition that the single filing rule can be used to circumvent the limitations period for bringing suit against an agency of the United States government. This omission is telling because, as noted, the Roemer plaintiffs' failure to file suit within the time established by the ADEA is more than just a violation of the statute of limitations; it bars this court from exercising jurisdiction over those claims because to do so would violate the immunity of the sovereign. *See Dillard*, 928 F. Supp. at 1324. Accordingly, the Roemer plaintiffs' complaint, 97 Civ. 4488, is dismissed pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction.

B. *Relation Back*

Rule 15(c) governs the relation back of amended pleadings to the original pleading for statute of limitations purposes. Rule 15(c) provides as follows:

> An amendment of a pleading relates back to the date of the original pleading when (1) relation back is permitted by the law that provides the statute of limitations applicable to the action, or (2) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, or (3) the amendment changes the party or the naming of the party against whom a claim is asserted if the foregoing provision (2) is satisfied and, within the period provided by Rule 4(m) for service of the summons and complaint, the party to be brought in by the

> amendment (A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

The Rule's purpose is "to prevent parties against whom claims are made from taking unjust advantage of otherwise inconsequential pleading errors to sustain a limitations defense." *Advanced Magnetics, Inc.* v. *Bayfront Partners, Inc.*, 106 F.3d 11, 19 (2d Cir. 1997) (citing Rule 15 Advisory Committee Note (1991)).

Because Levy's First Amended Complaint seeks to add the Roemer plaintiffs as additional parties to her lawsuit against the GAO, Rule 15(c)(3) governs whether that amendment relates back to Levy's original complaint. *See Advanced Magnetics*, 106 F.3d at 19 (Rule 15(c)(3) applies to addition of plaintiffs as well as defendants); *In re Integrated Resources Real Estate Ltd. Partnership Sec. Litig.*, 815 F. Supp. 620, 642 (S.D.N.Y. 1993). In order for an amendment which adds a new plaintiff to relate back to the original complaint, the original plaintiff must demonstrate: 1) the new plaintiff's claims arise out of the same transaction or occurrence advanced in the original pleading; 2) the defendant received adequate notice of the new plaintiff's claims so as not to be prejudiced in maintaining a defense on the merits; and 3) the defendant knew or should have known that, but for a mistake concerning the new plaintiff's identity, the action would have been brought on that party's behalf. *See* Fed. R. Civ. P. 15(c)(3);

Soto v. *Brooklyn Correctional Facility*, 80 F.3d 34, 35 (2d Cir. 1996); *Cornwell* v. *Robinson*, 23 F.3d 694, 705 (2d Cir. 1994).

Here, the GAO concedes that the first two elements of Rule 15(c)(3) are satisfied. (Def. Mem. at 25) However, the GAO argues that Levy's failure to name the Roemer plaintiffs in her original complaint was not the product of mistake, but rather a deliberate choice on her part to pursue her claims against the GAO in a separate action. Because mistake is a necessary element of relation back under Rule 15(c)(3), the GAO reasons that the Roemer plaintiffs' claims are untimely and must be dismissed for lack of subject matter jurisdiction. I agree.

Levy concedes that the failure to name the Roemer plaintiffs in the original complaint was not the result of mistake about the identity of other potential claimants. (Levy Mem. at 2) Levy argues instead that relation back may be permitted in the absence of mistake provided that the first two elements of Rule 15(c)(3) are satisfied. (*Id.* at 3-4) In the alternative, Levy and the Roemer plaintiffs contend that the "identity of interests" exception to Rule 15(c)(3) applies to this case. (*Id.* at 7-8; Roemer Mem. at 16-18) Neither argument is persuasive.

Levy's first argument is not viable: the Second Circuit has repeatedly held that mistake is a necessary element of relation back under Rule 15(c)(3). *See Soto*, 80 F.3d at 35; *Barrow* v. *Wethersfield Police Dep't*, 74 F.3d 1366, 1367 (2d Cir. 1996), *modifying*, 66 F.3d 466 (2d Cir. 1995); *Cornwell*, 23 F.3d at 705; *Gleason* v. *McBride*, 869 F.2d 688, 694 (2d Cir. 1989) and cases cited therein. Adhering to

these precedents, courts in this District routinely deny relation back where the element of mistake is not present. *See, e.g., Harris* v. *Butler*, No. 91 Civ. 6352, 1996 WL 403053, at *3 (S.D.N.Y. July 18, 1996); *Kahn* v. *Chase Manhattan Bank, N.A.*, No. 90 Civ. 2824, 1995 WL 491067, at *3 (S.D.N.Y. Aug. 17, 1995); *Adler* v. *Berg Harmon Assoc.*, 790 F. Supp. 1235, 1239 (S.D.N.Y. 1992); *Morin* v. *Trupin*, 778 F. Supp. 711, 735 (S.D.N.Y. 1991).

Apart from the express language of Rule 15(c)(3), which limits relation back to cases where "but for a mistake concerning the identity of the proper party" that party would have been named in the original complaint, mistake is a necessary element of Rule 15(c) because of the relationship between that rule and the statute of limitations. As the Second Circuit noted in *In re Allbrand Appliance & Television Co.*, 875 F.2d 1021, 1025 (2d Cir. 1989):

> [T]he relation back rule is intimately connected with the statute of limitations. It is designed to operate equably with that statute, to accommodate the statute of limitations policies that prevent stale claims from being litigated, and permit their repose. Clearly the relation back rule was not designed to provide a means to circumvent or expand the limitations period.

(quotations omitted). Similarly, as Judge Sweet aptly observed in *Morin*, "Rule 15(c) does not exist merely to keep the door open for any tardy plaintiff of whom a defendant may be aware. Rather, Rule 15(c) stands as a remedial device for adding or substituting a party who but for a *mistake* concerning the identity of the proper party would have been

named originally." (quotations omitted) (emphasis in original). Circumventing the 90-day limitations period for filing an ADEA action in federal court is precisely what the Roemer plaintiffs are seeking to do in this case. Because Levy concedes the absence of mistake, Rule 15(c)(3) does not permit the Roemer plaintiffs' claims to relate back to Levy's timely complaint.

Levy and the Roemer plaintiffs fare no better with their claim that the identity of interests exception to Rule 15(c)(3) applies here. "Under that exception, the institution of an action against one party will constitute imputed notice to a party subsequently named by an amendment of the pleading when the parties are closely related in their business activities or linked in their corporate structure." *Allbrand*, 875 F.2d at 1025. This exception does not apply here for two reasons.

First, as the passage quoted above makes plain, the identity of interests exception "impute[s] notice" to a closely-related party for the purpose of satisfying that element of Rule 15(c)(3). *Allbrand*, 875 F.2d at 1025. Thus, even if Levy and the Roemer plaintiffs shared an identity of interests — which they do not — the exception would not relieve Levy of the need to show mistake. *See West* v. *City of New York*, No. 88 Civ. 1801, 1995 WL 75475, at *2 (S.D.N.Y. Feb. 22, 1995). As noted, it is Levy's failure to show mistake — and not notice that bars relation back of the Roemer plaintiffs' claims.

Second, even if notice were at issue in this case, the Roemer plaintiffs are not sufficiently related to Levy to permit application of the identity of interests exception. The

Second Circuit has applied this doctrine only to parties having "substantial structural and corporate identity, such as shared organizers, officers, directors, and offices." *Allbrand*, 872 F.2d at 1025; *accord Gleason* v. *McBride*, 869 F.2d 688, 694 (2d Cir. 1989) (exception limited to the corporate context); *see, e.g., Hygrade Milk & Cream Co.* v. *Tropicana Products, Inc.*, 1993 WL 37496, at *1 (S.D.N.Y. Feb. 5, 1993) (wholly-owned subsidiaries of original plaintiff qualified for identity of interests exception). That Levy and the Roemer plaintiffs worked together at the GAO's New York office does not bring them within this exception, nor does it permit Levy to avoid the mistake requirement of Rule 15(c)(3). Accordingly, the Roemer plaintiffs' claims are dismissed from Levy's First Amended Complaint for lack of subject matter jurisdiction.

* * *

For the above reasons, defendant's motion to dismiss for lack of subject matter jurisdiction is granted, and the Roemer plaintiffs' claims are dismissed.

SO ORDERED:

s/ Michael B. Mukasey
Michael B. Mukasey
U.S. District Judge

Dated: New York, New York
April 20, 1998